

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application No. 76/476969  
Published May 18, 2004

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Hutchison Whampoa Enterprise Limited  
Opposer,

v.

Celestial Pictures Limited  
Applicant.

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Opposition No. 91161458

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**OPPOSER'S RESPONSE TO THE BOARD ORDER DATED OCTOBER 21, 2004**

This responds to the order of the Trademark Trial and Appeal Board  
allowing Applicant until November 5, 2004 to serve a copy of the Amended Notice of  
Opposition. A copy of this paper, filed and served on September 22, 2004 is attached. It is  
requested that the Opposition be instituted.

Respectfully submitted,


**CERTIFICATE OF MAILING**

**Date of Deposit : November 1, 2004**

I hereby certify that this correspondence is  
being deposited with the United States  
Postal Service as First Class Mail in an  
envelope addressed to the Commissioner  
for Trademarks, P.O.Box 1451, Alexandria  
Virginia 22313-1451.

**JULIE B. SEYLER**

  
(signature of person mailing paper or fee)

  
**JULIE B. SEYLER**  
Attorney for Opposer

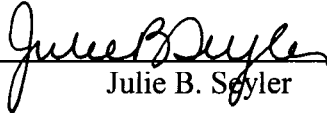
**ABELMAN, FRAYNE & SCHWAB**  
150 East 42nd Street  
New York, New York 10017  
(212) 949-9022



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by first class mail, postage prepaid on the 1st day of November, 2004 on

Joseph R. Dreitler, Esq.  
Mary R. True, Esq.  
Brian J. Downey, Esq.  
JONES DAY  
41 South High Street, Suite 1900  
Columbus, Ohio 43215

  
Julie B. Seyler

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application No. 76/476969  
Published January 20, 2004

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Hutchison Whampoa Enterprise Limited  
Opposer,

v.

Celestial Pictures Limited  
Applicant.

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Opposition No. 91161458

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**AMENDED NOTICE OF OPPOSITION**

Hutchison Whampoa Enterprises Limited, , a corporation organized and existing under the laws of the British Virgin Islands, with an office at Craigmuir Chambers, Wickhams Cay, Road Town, Tortola British Virgin Islands believes that it will be damaged by registration of the mark shown in Application Serial No. 76/476892 and hereby opposes the same.

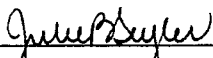
As grounds for opposition, it is alleged that:

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JULIE B. SEYLER

  
(signature of person mailing paper or fee)

1. Applicant has filed Application No. 76/476969 to register the mark



for production and distribution of motion pictures and documentaries;  
script writing services; audio recording and production of music; conducting  
entertainment exhibitions in the nature of film festivals and in relation to film technology;  
conducting award ceremonies to promote excellence in the entertainment industry;  
entertainment in the nature of television shows and documentaries in the fields of  
action/adventure, comedy, crime, drama, horror, musicals, science fiction, war, westerns,  
soap operas, martial arts, sports, news, and game shows; entertainment in the nature of  
live and on-line musical performances, film festivals, and fashion shows; providing on-  
line computer games; entertainment in the nature of visual and audio performances,  
dance performances, amusement park shows, and theatre productions; entertainment  
services, namely providing a web site featuring musical performances, musical videos,  
photographs, movies, live-actions, comedies, dramas, related film clips, and other  
multimedia materials, and related reviews; entertainment services, namely live, televised  
and movie appearances by professional entertainers, movie stars, singers, and sports  
celebrities; entertainment services, namely providing television programs in the fields of  
movies, live-actions, comedies, and dramas via a global computer network; entertainment  
services, namely providing on-line reviews of movies, live-actions, comedies, dramas,  
books, music and computer games; arranging ticket reservations for shows and other  
entertainment events; educational and entertainment services, namely providing  
motivational and educational speakers; entertainment in the nature of competitions in the

fields of films, television shows, television series, music, fashion, sports; animation shows, dance, theatre productions, and on-line computer games; entertainment services, namely providing prerecorded music, information in the field of music, and commentary and articles about music, all on-line via a global computer network and electronic global communications network; entertainment, namely live performances by musical bands; entertainment, namely live music concerts; radio entertainment production; entertainment services, namely providing radio programs, television programs, and conducting contests and festivals in the fields of music, film, sports, animation, and audio and visual shows via a global computer network; entertainment services, namely conducting contests on board cruise ships for passengers of all ages, in function rooms, stadiums, exhibition centers, concert halls, parks, or shopping malls; radio entertainment services, namely radio programs featuring performances by fictional characters, radio or sports or movie or games personalities, professional entertainers, movie stars, singers or sports celebrities; movie studios; movie theatres; and production of radio and television programs; animation production services

2. Applicant filed Application No. 76/476969 based on intent to use on December 18, 2002.

3. Opposer is the owner of all right, title and interest in and to STAR BUTTON DEVICE trademark as represented below.



4. Opposer has used the STAR BUTTON DEVICE in connection with telecommunication services, including third generation mobile services and applications, video calling; premium content browsing, music, movie and multimedia messaging, location guides, and video games.

6. Products designed as third generation mobile services are not geographically limited and therefore may be used throughout the world.

7. Opposer's services identified and distinguished under the STAR BUTTON DEVICE are rendered throughout the world, including Australia, Denmark, Hong Kong, Ireland, Israel, Italy, Sweden, Thailand, Austria and the United Kingdom. Given the inherent nature and purpose of third generation mobile services, such use is not geographically limited.

8. Applicant's mark is substantially similar to Opposer's mark.

9. Applicant's goods are commercially related to Opposer's services.

10. The goods are likely to travel in the same channels of trade, and/or be sold in the same type of retail outlets, and/or be purchased by the same class of consumers and/or be found in the same overlapping marketing environments.

11. Opposer promotes and advertises the services offered under the STAR BUTTON DEVICE throughout the world.

12. As a result of Opposer's widespread use and advertising, Opposer's mark is renowned throughout the world.

13. Upon information and belief, Applicant had actual knowledge of Opposer's use of Opposer's marks pleaded in the opposition.

14. Upon information and belief, Applicant had actual knowledge of Opposer's use of the STAR BUTTON DEVICE and intentionally adopted the mark shown in Application No. 76/476969 to trade on the goodwill Opposer has built in Opposer's mark pleaded in the opposition.

15. Applicant's mark is a colorable imitation of Opposer's mark. Upon information and belief, Applicant is attempting to trade on the goodwill previously established by Opposer in the STAR DEVICE mark.

16. In view of the substantial similarity between the respective marks, the commercial relationship between the goods, as well as the fame and recognition inherent in the STAR DEVICE trademark, registration of the mark is likely to cause confusion, mistake or deception to purchasers as to the source of Applicant's goods, and therefore it is submitted that registration to Applicant be refused under Section 2(d) of the Trademark Act.

17. Applicant's mark is the same or close approximation of Opposer's mark.

18. Opposer and Applicant are not related companies.

19. Opposer's trademark is of such fame and repute that Applicant's use of the mark on the goods set forth in the application will lead purchasers to assume a connection with Opposer and to falsely suggest a common association, sponsorship, or origin of said goods between Applicant and Opposer, all to Opposer's irreparable damage and injury.

For the foregoing reasons, Opposer submits that registration of Applicant's mark should be refused under Section 2(a) of the Trademark Act.

WHEREFORE, Opposer believes that it will be damaged by the registration of Application Serial No. 76/476969 and respectfully requests that registration be refused and this opposition be sustained.

Respectfully submitted,

  
JULIE B. SEYLER

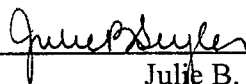
Attorney for Opposer

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#### CERTIFICATE OF SERVICE

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